

# **EXHIBIT D**

Volume: I

Exhibits: 1-16

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

C.A. No. 1:11-cv-12192-WGY

- - - - - x

SHEILA LYONS, DVM and HOMECOMING FARM, INC.,

Plaintiffs

vs.

ROBERT GILLETTE, THE BOARD OF DIRECTORS OF THE  
AMERICAN COLLEGE OF VETERINARY SPORTS MEDICINE  
AND REHABILITATION, INC. and THE AMERICAN  
VETERINARY MEDICAL ASSOCIATION, INC.,

Defendants

- - - - - x

DEPOSITION OF DR. LARRY DEE

Thursday, February 7, 2013 - 10:04 a.m.

Klieman & Lyons

115 Broad Street - 4th Floor

Boston, Massachusetts

Reporter: Maureen J. Manzi, CSR, CLR

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19  
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17 ALSO PRESENT:

18 Sheila Lyons  
19  
20  
21  
22  
23  
24

1 Veterinary Specialties. And this document is  
2 Bate-stamped 10728 through 10828. Take a second, if  
3 you would, and just have a look at that document for  
4 me.

5 (Witness reviewing Exhibit 52.)

6 Q. Now, doctor, have you had a chance to look  
7 at the documents marked as Exhibit 56 and Exhibit  
8 52?

9 A. I looked at the first page.

10 Q. Fair enough. But based upon your  
11 familiarity -- well, strike that, please.

12 Were you at least at one time familiar  
13 with the petition that was filed by this ACVSMR  
14 working group with the AVMA?

15 A. I had seen one petition, and looked at it  
16 briefly, I think when they sent in there first  
17 petition, it might have been this one, but I can't  
18 recall.

19 Q. And when you say "this one," you're putting  
20 your finger on?

21 A. Exhibit 52.

22 Q. Do you know how many petitions in all were  
23 submitted as the lawyers were saying off the record  
24 in this back and forth?

1           A. My understanding there was the original  
2 petition in 2002. There was another petition after  
3 many years that was rejected. And my understanding  
4 was there was a final petition that was approved.

5           Q. So, to the best of your recollection, there  
6 were three drafts of this petition document,  
7 correct?

8           A. Probably two drafts, the first being just a  
9 letter of applying for petition. There may have  
10 been more.

11          Q. Is that's what's known as a Letter of  
12 Intent, is that what you're referring to?

13          A. Yeah.

14          Q. So first comes the Letter of Intent,  
15 correct?

16          A. Yes.

17          Q. And then comes the petition?

18          A. Right.

19          Q. So, to the best of your recollection, there  
20 were two petitions or two drafts of the petition  
21 that was filed by this organizing committee with the  
22 AVMA?

23          A. At least two to my knowledge.

24          Q. Just so far as you can tell sitting here

1 today, you think that the first one that was  
2 submitted is Exhibit 52 and the second draft that  
3 was submitted was Exhibit 56, is that to the best of  
4 your recollection correct?

5 A. To the best of my knowledge. 56 is not  
6 dated. So I can't tell.

7 Q. That's why I have to ask you the question.  
8 I wish I could be more help to you.

9 Do you know, based upon your working  
10 with this group as the AVMA liaison, who contributed  
11 to the authorship of either Exhibit No. 52 or  
12 Exhibit 56?

13 A. I don't know who contributed to the  
14 authorship of the final document. I was involved in  
15 contributing some information about how to develop  
16 bylaws. And I assumed that was Exhibit 52.

17 Q. Tell me what you did in that connection  
18 then, doctor.

19 A. In that connection there was a meeting at  
20 Auburn with Dr. Gillette and Dr. Linda Blythe going  
21 through the steps and the process of developing a  
22 college and where they were, what were the next  
23 steps they needed to do. And I advised them that  
24 somewhere along the line they needed to develop

1 bylaws and they needed to make a lot of decisions  
2 about the idiosyncrasies of the bylaws and what they  
3 had to have in those and jokingly said you ought to  
4 be able to knock those out in two or three hours.  
5 And then they took me up on what they thought was an  
6 offer. Because I had been involved in bylaws before  
7 with specialty groups, I went home and did some word  
8 swapping, name swapping and sent them off a draft of  
9 the bylaws of the American Board of Veterinary  
10 Practitioners, just substituting names and said, you  
11 need to make decisions about do you have a  
12 secretary/treasurer or a secretary and a treasurer;  
13 do you have a vice president or not, and how many  
14 committees do you have and what additional structure  
15 do you want. Basically a boilerplate bylaws  
16 document that historically had been acceptable to  
17 the American Board of Veterinary Specialties.

18 Q. I assume this is a meeting that took place  
19 at some point after the Philadelphia meeting?

20 A. Oh, yes.

21 Q. And can you tell me what year this meeting  
22 took place?

23 A. My recollection it was either 2007 or 2008.  
24 I can't recall how far back it was.



1 comments; is that correct?

2 MR. DICKISON: Objection.

3 A. I assume it's correct.

4 Q. Can you tell me, who were the people that  
5 reviewed these petitions?

6 A. Who are they or who were they?

7 Q. Well, who were they in this particular case?

8 A. I don't know. They are members of the ABVS  
9 who are a new and emerging specialties committee and  
10 the people that are on it change intermittently.  
11 It's one, two or three years as I understand. But I  
12 don't know who it was then. At that time I was no  
13 longer a member of the ABVS. And even if I was, I  
14 would not have been part of that process.

15 Q. Now, I think that you said that you became a  
16 member of the Executive Board in July of, was it  
17 2007 or 2008?

18 A. '08.

19 Q. When was the first version, first draft of  
20 this petition submitted to ABVS, to your  
21 recollection?

22 A. No. 52 says November 2008.

23 Q. So by the time the first draft was submitted  
24 for review to ABVS, you had already become a member

1 of the Executive Board?

2 A. That's correct.

3 Q. Now, when you say it was too late when you  
4 received the first draft of this petition, I believe  
5 you used the word it was a done deal. Are you  
6 referring to the fact that you were now, by the time  
7 you received this draft, a member of the Executive  
8 Board or are you referring to the fact that there  
9 just wasn't enough time for you to do what you had  
10 generously offered to do for them?

11 A. There wasn't enough time for me to give them  
12 the courtesy that I had offered them.

13 Q. And to the best of your recollection, what  
14 happened next in the process of this group's seeking  
15 approval as an RVS0?

16 A. To the best of my knowledge, they went back  
17 and re-worked their petition and sent it in again in  
18 2009.

19 Q. Let me show you a document that was marked  
20 as Exhibit No. 53 at the deposition of Dr. Sabin and  
21 ask if you can identify that document, sir.

22 (Witness reviewing Exhibit 53.)

23 A. It appears to be a response of the ACVSMR  
24 organizing committee to the ABVS review committee

1 member. It says you have been selected to become a  
2 member, and this is one of the criteria of  
3 membership, in addition to a time commitment of  
4 several years.

5 Q. And by Item 12, by the way, I don't mean to  
6 correct you, but just for the record, were you  
7 referring to Exhibit 12 shown to you earlier?

8 A. I was referring to Exhibit 12. I'm sorry.

9 Q. That's fine. I just wanted to make sure it  
10 was clear for the record.

11 You were liaison then both to the group  
12 when it was a working group and then later when it  
13 was an organizing committee, correct?

14 A. Yes. After the initial petition or request  
15 to the ABVS, they appointed me and Leon Russell as  
16 liaisons. And I continued on as a liaison until  
17 July I believe it was 2008 when I went on the  
18 Executive Board.

19 Q. And as liaison to this group, is it fair to  
20 say that one of your roles was to help the group  
21 understand and comply with the policies and  
22 procedures of the ABVS?

23 A. That's correct.

24 Q. And did that include assisting them in

1 constructing their bylaws?

2 A. That's correct.

3 Q. And I want to show you a couple of documents  
4 just to see if I can get you to tell me if you  
5 remember them or not. Let's mark this Exhibit 16.

6 (Marked, Exhibit 16, documents  
7 Bate-stamped ACVSMR008616-ACVSMR008629.)

8 (Witness reviewing Exhibit 16.)

9 Q. Have you had a chance to take a look at this  
10 document?

11 A. Briefly.

12 Q. You mentioned earlier that you had taken the  
13 ABVP bylaws and plugged in certain words to give the  
14 ACVSMR a start at drafting its bylaws. Does this  
15 appear to be the result of that effort?

16 A. I think it does. Especially on the last  
17 page, it says adoption of bylaws.

18 Q. Yes.

19 A. And where I basically plugged in ACVSMR  
20 instead of ABVP, I failed to change the date of the  
21 laws of the State of New York in 1978. The ABVP  
22 bylaws were approved in 1978.

23 Q. And do you know if they were approved under  
24 the laws of the State of New York?

1           A. I believe they were because Dr. Kirk was  
2 from Cornell and he was one of the founding fathers  
3 of that specialty college.

4           Q. And, in fact, if you look at the cover  
5 e-mail to this document, it appears to be an e-mail  
6 from you to Dr. Gillette, correct?

7           A. Yes.

8           Q. And in that e-mail you mention just that,  
9 correct, that you took the ABVP bylaws and plugged  
10 in different terminology for the --

11          A. That's correct.

12          Q. -- ACVSMR?

13          A. Yes.

14          Q. Dr. Dee, I want to ask you a couple of  
15 questions about your brother, Jon Dee.

16          A. Jon Dee, yeah.

17          Q. At what point in the process did -- let me  
18 ask you this. Now, Dr. Jon Dee, you mentioned that  
19 he was associated as an adjunct with the University  
20 of Florida; is that correct?

21          A. Yes.

22          Q. Do you know how long he's been associated  
23 with the University of Florida?

24          A. No, I don't.